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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,600	04/02/2007	Atsushi Takahashi	003913.118325	4762

7590  
Pitney Hardin LLP  
7 Times Square  
New York, NY 10036-7311

EXAMINER
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CHIN, RANDALL E

ART UNIT	PAPER NUMBER
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3723

MAIL DATE	DELIVERY MODE
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01/12/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/579,600	<b>Applicant(s)</b> TAKAHASHI, ATSUSHI	
	<b>Examiner</b> Randall Chin	<b>Art Unit</b> 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 7-17 is/are pending in the application.
- 4a) Of the above claim(s) 12-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Group I, claims 7-11, in the reply filed on 14 October 2008 is acknowledged.
2. Claims 12-17 (Group II) are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 14 October 2008.

### ***Information Disclosure Statement***

3. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Drawings***

4. The drawings are objected to because in Fig. 8, the lead line for reference numeral 8 is unclear as to where it is directed to.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 7-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Brandli 4,395,943 (hereinafter Brandli).

As for claim 7, the patent to Brandli discloses a “small-diameter” (merely a relative expression) resin twisted brush comprising a plurality of resin filaments 2 (since it’s an interproximal toothbrush with typical plastic or resin filaments), at least two resilient resin stem rods 3, 3 (col. 2, lines 17-23), said plurality of resin filaments being clamped between said at least two resilient resin stem rods (Fig. 1), said at least two resilient resin stem rods 3, 3 being twisted about one another, thereby forming said brush with helical bristles formed by said plurality of resin filaments extending radially from said at least two twisted resilient resin stem rods (Fig. 1), whereby said small-diameter resin twisted brush is deemed capable of adapting to deformed conditions and of recovering an initial shape.

As for claim 8, said at least two resilient resin stem rods 3, 3 is deemed to include at least one “thermally fusible” resin filament rod since the wire rod 3 has a plastic layer of nylon or polyurethane thereon (col. 2, lines 17-21). As for claim 8 further reciting that said at least one thermally fusible resin filament rod is “fused during manufacture of said small-diameter resin twisted brush” to firmly hold said plurality of resin filaments between said at least two twisted resilient resin stem rods, and to prevent said at least two twisted resilient resin stem rods from detwisting, it should be noted that methods of forming are not germane to patentability in apparatus claims.

As for claim 9, said at least two resilient resin stem rods 3, 3 are deemed coated with a thermally fusible resin material 4 (Fig. 2; col. 2, lines 17-21). As for claim 9 further reciting that said thermally fusible resin filament rod is “fused during manufacture of said small-diameter resin twisted brush” to firmly hold said plurality of resin filaments

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between said at least two twisted resilient resin stem rods, and to prevent said at least two twisted resilient resin stem rods from detwisting, it should be noted that methods of forming are not germane to patentability in apparatus claims.

As for claim 10, said at least two resilient resin stem rods 3, 3 are color-coded with a pigmented resin to indicate the size of said helical bristles (col. 2, lines 39-42).

As for claim 11, ends of said at least two resilient resin stem rods adjacent to said helical bristles are deemed "smoothed" (since this is merely deemed a relative term) to remove sharp edges.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references to Montoli, Mathison, Fitjer, Dumler, and Christoforou are relevant to various twisted wire brush arrangements.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randall Chin whose telephone number is (571) 272-1270. The examiner can normally be reached on Monday through Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Randall Chin/  
Primary Examiner, Art Unit 3723